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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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OFFICE OF RESEARCH

Room 213, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803) 734-3230

WEEK IN REVIEW

HOUSE

The House of Representatives amended, approved, and sent to the Senate **H.3442**, a bill providing for a **SALES TAX EXEMPTION ON FOOD**. This bill provides a sales tax exemption, phased in over four years at an additional one percent reduction per year, on food items eligible for purchase with U.S. Department of Agriculture food coupons. The phase-in would begin July 1, 2001, and would provide a total exemption beginning January 1, 2005. The exemption does not apply to a local sales and use tax imposed pursuant to a referendum held before July 1, 2001, except where a local sales and use tax specifically exempts these items. The exemption provided in the bill applies to a local sales and use tax imposed pursuant to a referendum held after June 30, 2001. The bill also provides that eighty percent of the revenues from sales taxes raised by these special tax rates must be credited to the general fund, and the remainder must be credited to the Education Improvement Act Fund. The legislation provides for an Education Improvement Act "hold harmless" provision. An amount of general fund revenue not derived from the state sales and use tax equal to the amount of state sales and use tax revenue not collected because of the exemption allowed under the bill is deemed state sales and use tax revenue and must be used as provided in *South Carolina Code of Laws* §59-21-1010(A) and (B), (re disposition and allocation of sales tax revenues for schools) including the appropriate amount required to be credited to the Education Act Improvement Fund.

The House amended and approved **H.3480**, relating to the **OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES**. Under this bill, when an emergency vehicle makes use of a visual or audible signal, the driver of every other vehicle must yield the right-of-way to the emergency vehicle. Under the bill, a driver traveling along a two-lane roadway must comply with existing requirements of moving to the curb or edge of the road and stopping as provided. The bill provides a new requirement for multilane roadways. A driver of a vehicle traveling along a multilane roadway shall yield the right-of-way and shall remain in, or move to a location that allows the emergency vehicle or police vehicle to pass safely, except as otherwise directed by a police officer.

The House amended, approved, and sent to the Senate **H.3665**, a bill providing for **REINSURANCE CAPTIVES**. The legislation expands provisions authorizing captive insurance companies, which insure only the risks of parent or affiliated companies, so as to provide for a new form of captive, the Reinsurance Captive. The legislation provides requirements for such captives including minimum capitalization and the percentage of capital that must be kept in South Carolina. The legislation authorizes governmental or quasi-governmental bodies to form such captives.

The House amended and approved **H.3601**, a bill requiring the seller of real property to provide the purchaser with a **PROPERTY CONDITION DISCLOSURE STATEMENT**.

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This bill provides that the owner of certain residential real property shall furnish to a purchaser a written residential property statement, the form of which is to be established by the Real Estate Commission, disclosing those items that are relative to the condition of the property and of which the owner has actual knowledge. The disclosure form would also afford the owner the option of indicating that he is making no representations as to any condition. Exemptions from this requirement are provided. The legislation imposes duties on owners and real estate licensees in regard to the requirements.

The House approved **H.3438**. This bill **REQUIRES A TWO-THIRDS VOTE OF THE MEMBERSHIP OF THE HOUSE AND A TWO-THIRDS VOTE OF THE MEMBERSHIP OF THE SENATE FOR THE IMPOSITION OF A NEW OR INCREASED GENERAL TAX**. A general tax is a tax which applies to over fifty percent of the population as a whole.

The House amended, approved, and sent to the Senate **H.3172**, a bill providing for a **STATE INCOME TAX CREDIT FOR CONTRIBUTIONS TO NONPROFIT EDUCATIONAL FOUNDATIONS**. This bill authorizes a State Income Tax credit to be phased-in beginning with a one hundred dollar credit in 2002, and increasing by one hundred dollars annually to a maximum credit of five hundred dollars per calendar year 2006 and thereafter. The credit is allowed for contributions made to certain nonprofit education foundations that provide academic assistance grants for children who attend eligible public or nongovernmental primary or secondary schools. The bill requires that a majority of these students qualify for needs-based assistance. For purposes of the tax credit, the bill provides definitions for "eligible school" and "nonprofit educational foundation," and the bill provides procedures, conditions, and limitations for the credit. These provisions would apply to contributions authorized under the bill, which contributions are made on or after January 1, 2002.

The House amended, approved, and sent to the Senate **H.3513**. This bill **PROHIBITS THE APPROPRIATION OF SURPLUS FUNDS FOR RECURRING EXPENSES** of state agencies, except to prevent an operating deficit of a state agency.

The House approved and sent to the Senate **H.3013**. This bill provides that **A STATE AGENCY OR INSTITUTION MAY USE FLEXIBLE SCHEDULING OF THE MINIMUM FULL-TIME WORK WEEK HOURS** for an employee so long as the flexible scheduling does not impair the agency's or institution's ability to meet its needs and service delivery requirements.

The House approved and sent to the Senate **H.3539**, a bill that enacts the **COMPUTER ABUSE ACT OF 2001** and makes several technical corrections to the Computer Crimes Act. In addition to other civil remedies available, under this bill the owner or lessee of a computer, computer system, computer network, computer program, or data may bring a civil action against a person convicted under this act for compensatory damages and restitution. The bill revises definitions for several terms used in the Computer Crimes Act. Under this bill, the term "computer

contaminant" means a computer program designed to modify, damage, destroy, disable, functionally impair, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. Computer contaminant includes, but is not limited to, a group of computer programs commonly called viruses and worms that are self-replicating or self-propagating and are designed to contaminate other computer programs, consume computer resources, modify, destroy, record, or transmit data, or in some fashion usurp the normal operation of the computer, computer system, or computer network. The bill makes it an offense to introduce a computer contaminant into a computer, computer system, computer program, or computer network.

The House approved and sent to the Senate H.3528. This bill relates to the membership on the **MULTIDISCIPLINARY TEAM REVIEWING RECORDS TO DETERMINE IF A PERSON IS A SEXUALLY VIOLENT PREDATOR**. Current law provides that the Chief Attorney of the Office of Appellate Defense or his or her designee shall serve on this team. This bill deletes the provision relating to the Chief Attorney of the Office of Appellate Defense and provides instead that an attorney experienced in the practice of criminal law appointed from a list of candidates submitted by the President of the South Carolina Bar shall serve a term of one year.

The House amended, approved, and sent to the Senate H.3404, which provides for **INCREASED PENALTIES FOR OFFENSES AGAINST ELECTION LAWS**. Currently, a person who falsely swears in making an application for registration is guilty of a misdemeanor, and upon conviction an individual must be fined in the discretion of the court or imprisoned not more than three years, or both. Under this bill, a person who knowingly makes false statements in making an application for registration is guilty of a felony, and upon conviction an individual must be fined in the discretion of the court or imprisoned not more than five years, or both. Currently, the penalty for fraudulent registration or voting is a misdemeanor, and upon conviction a person must be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned not more than one year, or both. Under H.3404, the penalty for fraudulent registration or voting is a felony, and upon conviction a person must be fined in the discretion of the court, or imprisoned not more than ten years, or both. H.3404 creates the offense of bribing a person to register to vote. Under this bill, it is unlawful for a person at any election to (1) register someone for consideration of money or (2) procure, offer, or propose to procure, another to register to vote, by the payment, delivery, or promise of money or other article of value. Additionally, H.3404 prohibits a person from using threats or another form of intimidation to endeavor another to register to vote. Currently the penalty for procuring or offering to procure votes by threats, is a misdemeanor, and an individual upon conviction must be fined not less than one hundred dollar nor more than five hundred dollars or imprisoned not more than three years, or both. Under this bill, the penalty for procuring or offering to procure votes by threats, is a felony, and an individual upon conviction must be fined in the discretion of the court or imprisoned not more than ten years, or both.

The House amended, approved, and sent to the Senate **H.3504**, relating to the **IDENTIFICATION OF A PERSON INDEPENDENTLY PAYING FOR AN ELECTION-RELATED COMMUNICATION**. Current law requires a candidate, committee, or other person which makes an expenditure in the distribution, posting, or broadcasting of a communication to voters supporting or opposing a public official, a candidate, or a ballot measure to place his or her name and address on the printed matter or have his or her name spoken clearly on a broadcast so as to identify accurately the person and his or her address. Campaign buttons, balloons, yard signs, or similar items are exempt from this requirement. This bill requires the name and address of the candidate, committee, or person making the expenditure to be printed in all capital letters in fourteen-point type.

The House amended, approved, and sent to the Senate **H.3682**, relating to the **TRAINING AND CERTIFICATION REQUIREMENTS FOR MEMBERS OF A COUNTY REGISTRATION BOARD, A COMBINED ELECTION AND REGISTRATION COMMISSION, OR A COUNTY ELECTION COMMISSION**. Failure by a member of a county registration board, a combined county election and registration commission, or a county election commission to complete or make satisfactory progress toward completion of the certification and training requirement, as determined by the State Election Commission, constitutes neglect of duty for which the governor must remove the member from office. The bill also requires the State Election Commission to report to the governor and the legislative delegation or other recommending authority the progress of each of these officials toward completion of these training and certification requirements.

The House amended, approved, and sent to the Senate **H.3697**. This bill reconstitutes the **COMMISSION ON INDIGENT DEFENSE'S MEMBERSHIP**. Under the bill, the governor must appoint five members recommended by the South Carolina Public Defender Association (of these five members, three must be public defenders and two must be private attorneys who primarily practice criminal defense law.) The Chairmen of the House and Senate Judiciary Committees will appoint two members of the commission. Also, the bill provides for staggered terms of commission members and causes the terms of the present members of the commission to expire on July 1, 2001.

The House approved and sent to the Senate **H.3733**. This bill **REVISES THE "HOLD HARMLESS" BASE YEAR IN THE REIMBURSEMENT DISTRIBUTION FORMULA RELATING TO THE RESIDENTIAL PROPERTY TAX EXEMPTION**. The bill provides that a school district may not receive as a reimbursement for the current fiscal year an amount less than the actual reimbursement amount it received in the preceding fiscal year. Currently, a district may not receive a reimbursement for a fiscal year in an amount less than the actual reimbursement amount it received in fiscal year 1998-99.

The House approved **S.143**. Currently, county taxes are payable only in silver coin, U.S. currency, U.S. postal money orders, and checks. **S.143** provides that a **THIRD-PARTY ADMINISTRATOR MAY BE USED FOR THE COLLECTION OF COUNTY TAXES THROUGH ELECTRONIC MEDIA** if there is no cost to the county.

Also, the bill provides that other media of payment may be accepted upon approval of the governing body, and approval of the governing body must be obtained if costs are incurred by the county in the acceptance of a payment media. Costs of collection would be shared among the taxing entities. The bill also provides that the county governing body may impose a uniform surcharge as a condition of acceptance of a particular medium of payment, not to exceed the cost of accepting charge cards, debit cards, or electronic forms of payment including discount or merchant fees.

The House approved and sent to the Senate **H.3129**. This bill provides a **SALES TAX EXEMPTION FOR PRESCRIPTION MEDICINES USED IN THE TREATMENT OF RENAL DISEASE**.

The House approved and sent to the Senate **H.3586**. This bill **EXEMPTS FROM THE ADMISSIONS TAX PHYSICAL FITNESS FACILITIES** of the state and any of its political subdivisions in the same manner that private physical fitness centers are exempted under the Physical Fitness Services Act.

The House approved **S.218**, a bill relating to the **MANNER IN WHICH STATE GENERAL OBLIGATION BONDS ARE SOLD**. The bill requires that State General Obligation Bonds must be sold at public sale, after advertisement of the sale in a newspaper having general circulation in this State or in a financial publication published in the City of New York, as determined by the State Budget and Control Board (the Board). The bill provides for the methods of advertising the bond sales and allows the Board to receive bids for the purchase of bonds in a form the Board determines. The bill also provides that if no bids are received or if all bids are rejected, the bonds may be disposed of at private sale.

The House approved and sent to the Senate **H.3683**, a bill revising **BUDGET AND CONTROL BOARD APPROVAL OF STATE EMPLOYEE INSURANCE PLANS**. This bill requires annual State Budget and Control Board approval of the next calendar year's plan of benefits, eligibility, and contributions relating to insurance for state employees and school district employees by August 15 preceding the calendar year, rather than by October 1, as currently provided.

The House approved and sent to the Senate **H.3890**. This joint resolution authorizes the **REALLOCATION OF TECHNICAL ASSISTANCE FUNDING** under the Education Accountability Act for specified assistance to low-performing schools and school districts, and provides the manner in which and criteria under which this special assistance shall be provided.

The House approved and sent to the Senate **H.3917**, relating to the **AUTHORIZATION OF STATE CAPITAL IMPROVEMENT BONDS**. This bill substitutes revised projects for projects previously authorized for the technical college of the low country and Aiken Technical College without changing the original authorization amounts.

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The House amended, approved, and sent to the Senate **H.3427**, a bill that authorizes the Department of Public Safety (DPS) to issue **SPECIAL LICENSE PLATES FOR WORLD WAR II VETERANS**. Such license plates may be issued to World War II veterans or their spouses. The fee for the issuance of the special plate is twenty dollars biennially. The fee for issuance of the plates must be used to support and promote ROTC programs in the state's public schools. The bill provides guidelines for production and distribution of these special plates.

The House amended, approved, and sent to the Senate **H.3590**, which increases the **FEE FOR A TEMPORARY ALCOHOL-RESTRICTED DRIVER'S LICENSE** from thirty dollars to one hundred dollars. The bill requires that twenty-five dollars of the one hundred dollar fee must be retained by DPS for supplying and maintaining vehicle videotaping equipment, twenty-five dollars must be distributed to the Department of Alcohol and Other Drug Abuse Services for use in educating persons under the age of twenty-one about the dangers of driving a motor vehicle under the influence of alcohol and other drugs, and the remaining fifty dollars must be retained by DPS.

H.3302, a joint resolution creating an **ADOPTIONS PROCEDURE STUDY COMMITTEE**, was approved by the House and sent to the Senate. The purpose of this committee is to review the South Carolina adoption process and procedures for the purpose of strengthening the integrity of adoptions. The committee's review shall include, but is not limited to, what effect a voluntary relinquishment of parental rights should have on a parent's duty to pay child support before the adoption is finalized and in whose custody is a child whose parents' voluntary relinquishment of parental rights was obtained by a private attorney. The committee's review shall further include, but is not limited to, issues concerning the necessity of a putative father registry and problems relating to adoption subsidies, parental consent requirements, relinquishment of parental rights issues, licensing of persons facilitating adoptions, providing adequate notice of hearings to foster parents regarding their foster child and providing them with an opportunity to address the court, and the length of time required for foster parents to complete an adoption. The committee must submit its report by January 1, 2002, and at that time the committee would be abolished.

The House amended Senate amendments to **H.3288**, pertaining to the **MANUFACTURED HOUSING INDUSTRY**, and returned the bill to the Senate. The House eliminated the provision under which the Governor's appointments to the South Carolina Manufactured Housing Board would be made with the advice and consent of the Senate.

The House amended, approved, and sent to the Senate **H.3821**. This joint resolution establishes a three-year **PILOT PROGRAM OF ALLIGATOR FARMING** for the purpose of determining the feasibility of alligator farming for poultry mortality disposal. The joint resolution provides that, until July 1, 2004, any person eighteen or older may establish an alligator farm for the purpose of poultry mortality disposal by complying with the terms and conditions specified in the joint resolution. The

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House approved an amendment providing for siting requirements and standards for fencing and containment that must be used.

The House amended, adopted, and sent to the Senate, Concurrent Resolution **H.3585**. The resolution provides that it is the view of the General Assembly that **STATE PERSONNEL POLICIES OR PROCEDURES**, or both, established by the State Budget and Control Board should be promulgated as regulations in conformity with the Administrative Procedures Act when the policies extend to state employees not employed by the State Budget and Control Board.

SENATE

The Senate concurred in the House's amendments to **H.3237**, and the bill was ordered enrolled for ratification. The bill pertains to the use of **BREAM AS BAIT ON TROT LINES**. This bill removes the prohibition on the use of bream as bait on certain trotlines after June 30, 2001, on the Edisto, Black, Sampit, Big Pee Dee, Little Pee Dee, Lumber, and Waccamaw Rivers. The bill removes another prohibition on the use of bream as bait on certain trotlines after June 30, 2001, on the Black, Big Pee Dee, Little Pee Dee, Lumber, and Waccamaw Rivers.

S.537 was approved by the Senate and sent to the House. The legislation expands provisions authorizing **CAPTIVE INSURANCE COMPANIES**, which insure only the risks of parent or affiliated companies, so as to provide for a new form of captive, the Reinsurance Captive. The legislation provides requirements for such captives including minimum capitalization and the percentage of capital that must be kept in South Carolina. It is not the intent of this provision to allow an insurer domiciled outside this State to take credit for reinsurance in its financial statements based on the domestic license, authorization, accreditation, or 'substantially similar' status of the captive reinsurance company.

The Senate approved and sent to the House **S.459**, a bill relating to methods of **ABSENTEE VOTING**. This bill authorizes a county board of registration to use other methods of voting by absentee ballot instead of by paper ballot. No voting machine or voting system, other than a paper-based system, may be used for in-person absentee voting that has not received written certification from the State Election Commission. The State Election Commission must develop standards and guidelines for these purposes.

S.495, relating to **SPECIAL LICENSE PLATES**, was approved by the Senate and sent to the House. This bill requires the Department of Public Safety to display in all Division of Motor Vehicle Offices where motor vehicle license plates or stickers may be obtained or renewed, examples of all types of special license plates which individuals of a particular group may obtain.

The Senate approved and sent to the House **S.504**. This bill provides that an application for a **SPECIAL SOUTH CAROLINA NATIONAL GUARD OR SOUTH**

CAROLINA STATE GUARD LICENSE PLATE must include a copy of the applicant's military identification card or other evidence showing that the applicant is either a retired or active member of the South Carolina National Guard or the South Carolina State Guard.

The Senate amended, read for the third time, and sent **S.343** to the House. This bill provides for the licensure and regulation of **ANESTHESIOLOGIST'S ASSISTANTS**. The legislation establishes an Anesthesiologist's Assistant Advisory Committee to the Board of Medical Examiners, providing for the powers and duties of both with regard to anesthesiologist's assistants. The bill defines the role and responsibilities of a supervisory physician for an anesthesiologist's assistant. The bill provides general practice parameters and procedures for establishing scope of practice protocols and further provides for the regulation of anesthesiologist's assistants. Penalties are provided for violations.

The Senate approved and sent to the House **S.481**, this bill pertains to **HARASSMENT AND STALKING**. Highlights of the bill include the following:

- This bill amends the definition of the term "harassment" to include written or electronic communication that is initiated, maintained, or repeated after a person has been provided notice that the contact is unwanted.
- Under this bill, a person convicted of harassment is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both if: (1) the person has a prior conviction of harassing or stalking; or (2) at the time of the harassment or stalking, an injunction or restraining order was in effect prohibiting the harassment or stalking.
- Current law provides that a person who engages in stalking is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both. **S.481** increases the penalty from one-year imprisonment to three years imprisonment.
- Current law provides that a person who engages in stalking when an injunction or restraining order is in effect prohibiting this conduct is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than two years, or both. **S.481** increases the penalty from two years imprisonment to three years imprisonment.
- Current law provides that a person who engages in stalking a person within seven years of a prior conviction of harassment against or stalking of that person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both. Current law also provides that a person who engages in aggravated stalking of a person within seven years of a prior conviction of harassment against or

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stalking of that person is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, imprisoned not more than fifteen years, or both. S.481 deletes the seven years prior conviction time frame from both these sections.

- S.481 also provides that upon the issuance of a restraining order as a condition of bond for the arrest of the defendant for any crime, the magistrate's court shall issue a written copy of the restraining order to the victim in person or by mail within twenty-four hours of the bond hearing. A restraining order issued as a condition of bond has the same effect as any restraining order issued.
- With regards to a magistrates' court serving a defendant with a certified copy of the order, S.481 provides that after reasonable attempts to locate the defendant have failed, service of the defendant must be made by mail return receipt requested to the defendant's last known address. The receipt return must be filed with the magistrates' court. A copy must also be mailed to the plaintiff.
- Prior to setting bail, S.481 allows a magistrate or a municipal judge to order a defendant charged with harassment or stalking to undergo a mental health evaluation performed by the local mental health department. The purpose of this evaluation is to determine if the defendant poses a threat to the victim or possesses a mental abnormality which requires immediate commitment or additional treatment as a condition of bond.
- Under S.481, criminal domestic violence of a high and aggravated nature would be considered a violent crime.
- S.481 completely revises the statute pertaining to unlawful use of a telephone. This bill provides that it is unlawful for a person, by telephone, computer, or other electronic device, with the intent to coerce, intimidate, or harass another person, to communicate or convey to another person a message, which is obscene, vulgar, indecent, profane, suggestive, or immoral. This bill further provides that it is unlawful for a person to repeatedly telephone, or repeatedly send e-mail or other forms of electronic communication to another person, whether conversation or communication ensues, for the purpose of annoying or harassing that person or that person's family. The bill establishes penalties for failure to comply with these provisions.

S.315, which creates the **OFFENDER EMPLOYMENT REFERRAL PROGRAM**, was approved and sent to the House. The stated purpose of this program is to aid incarcerated individuals with reentry into their home communities. The bill requires the South Carolina Department of Corrections (DOC) to assist inmates in preparing for meaningful employment upon release from confinement. The bill further requires the DOC to coordinate efforts in this matter with the Employment Security Commission, the Department of Probation, Parole and Pardon Services, the

Department of Vocational Rehabilitation, the Alston Wilkes Society, and other private sector entities.

The Senate approved and sent to the House S.316. This bill authorizes the **DEPARTMENT OF CORRECTIONS** (DOC) to contract to have constructed or fund all or a portion of the construction costs associated with certain facilities. The bill also authorizes the DOC to contract with a county, municipality, or other local governmental or multi-jurisdictional entity to fund all or a portion of the construction costs associated with a community correctional facility, if the appropriations are provided by the General Assembly. Before the construction of a community correctional facility, current law requires the DOC to reimburse the local facility for the cost of caring for each state inmate as provided by contract. Under this bill, the DOC may but is not required to reimburse the local facility. With regards to the designation of places of confinement for a person convicted of an offense against the state, this bill adds municipal and regional detention facilities to the list of locations where these prisoners may be confined.

Also of interest this week, the Senate amended and continued its debate on S.496, "THE SOUTH CAROLINA EDUCATION LOTTERY ACT."

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, April 10, and reported out two bills.

The committee gave a favorable report on H.3706. This bill revises provisions relating to notice requirements, notice contents, and information to be provided to the General Assembly in connection with the promulgation and review of regulations, so as to require the **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PROVIDE THE SCIENTIFIC OR TECHNICAL BASIS AND ANY STUDIES USED IN DEVELOPING REGULATIONS**, including a summary of these studies. Copies of this information must also be available to the public.

The committee gave a favorable report on H.3599. This bill revises the definition of a **PEELER TRAP** in the South Carolina Marine Resources Act of 2000 so as to provide that such a trap may be baited with one single piece of fish having no dimension greater than three inches.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee gave a report of favorable with amendment to **H.3272. AS INTRODUCED**, this bill authorizes the Department of Public Safety to issue special **NASCAR LICENSE PLATES**, which are imprinted with an emblem, a seal, or other symbol appropriate to a NASCAR driver or team. The bill as introduced provides for the design and distribution of these plates, and provides that after satisfaction of the costs to produce and administer the plates, half of the remaining fee revenues must be placed in a special account designated as the "South Carolina Children's Emergency Shelter Fund," and distributed to the South Carolina Children's Emergency Shelter Foundation or its non-profit foundation designee for the benefit of the South Carolina Children's Emergency Shelters. The bill, as introduced, further provides that the other half of the remaining revenues must be placed in a special account for use by the Department of Parks, Recreation, and Tourism to be used for sports-related tourism in the State.

AS AMENDED by the Committee, **H.3272** would be entitled "The Neilson and NASCAR Special License Plates Bill" (primary sponsor of the bill is Rep. Denny Neilson), and the special plates would be imprinted with an emblem, a seal, or other symbol appropriate to NASCAR or a NASCAR driver or team. The Committee also amended the bill so as to provide for special NASCAR or NASCAR driver or team collector license plates which may not be displayed on any vehicle registered or required to be registered in this State. The Committee's amendment provides penalties for violation of this provision. The Committee also amended the bill so as to provide for the size, design, and fee for the collector plates. The Committee amendments also include a provision that fees for the plates must be deposited by the Comptroller General into a special restricted account and after costs of producing the plates have been satisfied, remaining funds must be distributed as follows: one-half deposited into a special account established within and administered by the Department of Social Services, which shall distribute at least one-half of the funds to the South Carolina Children's Emergency Shelter Foundation for the benefit of the South Carolina children's emergency shelters; one-fourth deposited in a special account designated the "South Carolina Sports Development Office Fund," with the funds to be used to promote the South Carolina Sports Development Office; and one-fourth deposited in a special account within, and administered by, the Department of Public Safety (DPS) and designated the "NASCAR License Plate Highway Safety Fund," for use by DPS to promote highway safety in conjunction with the Department of Transportation and NASCAR or a NASCAR driver or team.

The Committee gave a favorable report to **H.3602**, which **ADDS THE STATE SUPERINTENDENT OF EDUCATION OR THE SUPERINTENDENT'S DESIGNEE AS A NON-VOTING, EX OFFICIO MEMBER OF THE EDUCATION OVERSIGHT COMMITTEE.**

The Committee gave a favorable report to **H.3623**, which provides that **PAGING DEVICES WHICH ARE CONFISCATED FROM PUBLIC SCHOOL STUDENTS** and

forfeited to the school district under current law shall be returned to the owner in the manner and under the time lines governed by school district policy.

The Committee gave a report of favorable with amendment to **H.3364**, which concerns **STANDARDS FOR HIGH SCHOOL DIPLOMAS**. **AS INTRODUCED**, this bill requires that if any state licensing, appointment, election, admission, employment, or other procedure requires possession of a high school diploma or its equivalent, no such diploma or certificate shall be acceptable unless the state board of education certifies that the standards of the institution granting the diploma or certificate or the standards of any testing, the results of which are the basis for granting the diploma or certificate, are at least comparable to those of this state.

AS AMENDED BY THE COMMITTEE, **H.3364** clarifies that the provisions of the bill apply to correspondence diplomas, and requires that in order to be acceptable for purposes of state licensing, appointment, election, admission, employment, or other procedure or process, a correspondence diploma or certificate: must be approved by the state board of department of education in the state in which the school or entity issuing the diploma or certificate has its principal place of business; must be from a school or entity accredited by the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools' the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools; or must be from a school or entity approved by a local board of school trustees of this State. The Committee also amended **H.3364** by including a provision that it is unlawful for a person to use, falsify, or alter a transcript, diploma, or the high school equivalency diploma known as GED from any high school, college or university, technical college, the South Carolina Department of Education, or other entity for the purpose of fraudulently avoiding the requirements of this bill or for other unlawful purposes. The amendment also provides a penalty for violation of this provision.

The Committee gave a favorable report to **H.3600**. Currently, in setting the **CRITERIA FOR THE ACADEMIC PERFORMANCE RATINGS AND THE PERFORMANCE INDICATORS**, the Education Oversight Committee reports the performance by subgroups of students in the school and schools similar in student characteristics, and consideration of these factors must be given only in the improvement rating. This bill provides that **THE COMMITTEE SHALL CONSIDER THESE CRITERIA IN ALL RATINGS**.

The Committee gave a favorable report to **H.3603**, which **DELETES THE REQUIREMENT THAT A STANDARDS-BASED ASSESSMENT WILL BE DEVELOPED FOR GRADES ONE AND TWO** for use by schools and districts as deemed appropriate by district officials.

The Committee gave a report of favorable with amendment to **H.3545**. Under this bill **AS INTRODUCED**, the **'POLICE OFFICER SAFETY ZONE'** means the area that immediately surrounds a law enforcement vehicle traveling or parked along an interstate or four-lane highway whose blue light is activated. This bill further

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provides that a motor vehicle traveling through a police officer safety zone must: (1) not exceed the posted speed limit; (2) yield the right-of-way to a law enforcement vehicle; and (3) move to a lane away from the officer safety zone, if possible. A driver of a motor vehicle who violates these provisions is guilty of a misdemeanor and, upon conviction, must be fined one hundred dollars.

AS AMENDED by the Committee, all of the provisions of H.3545 would apply to "law enforcement" and to "authorized emergency vehicles" rather than just to police officers. The bill as amended by the Committee provides for the "Law Enforcement or Authorized Emergency Vehicle Safety Zone," defined as the area that immediately surrounds a law enforcement or an authorized emergency vehicle making use of an audible or visual signal meeting requirements specified in the Uniform Act Regulating Traffic on Highways.

The Committee gave a report of favorable with amendment to H.3565. **AS INTRODUCED**, this bill **EXEMPTS NEWSPAPER CARRIERS FROM THE MANDATORY USE OF SAFETY BELTS** in motor vehicles.

AS AMENDED BY THE COMMITTEE, H.3565 exempts newspaper carriers who are actually engaged in the delivery of newspapers along the carrier's specified newspaper delivery route from the mandatory use of safety belts in motor vehicles.

The Committee gave a report of favorable with amendment to H.3719, which amends current law regarding **MOTOR VEHICLE SAFETY BELT REQUIREMENTS**. Currently, a driver is responsible for requiring each motor vehicle occupant over six and under seventeen years of age to wear a safety belt, and the maximum current penalty for one incident of violation, even if it involves more than one violation of safety belt provisions, is twenty dollars. Currently, a law enforcement officer is not allowed to stop a driver for violation of these provisions in the absence of another violation of the motor vehicle laws unless the stop is made in conjunction with a driver's license check or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time. **AS INTRODUCED**, H.3719 requires all persons, regardless of age, to wear a seat belt or be secured by a child restraint system. H.3719 also authorizes primary enforcement of the requirement to wear seat belts for occupants seventeen years of age or younger, and increases the maximum fine for violation from ten dollars to twenty-five dollars. The bill also imposes the fine on the driver of the vehicle if the violation is by the driver, or by an occupant seventeen years of age or younger if the driver is eighteen years of age or older. If the violation is by an occupant eighteen or older, the fine is assessed against the occupant.

AS AMENDED BY THE COMMITTEE, H.3719 charges a driver with the responsibility of requiring each occupant ages six to eighteen to wear a safety belt or be secured in a child restraint system. The Committee also amended the bill so as to provide for a maximum total fine of fifty dollars for any one incident of one or more violations of this provision. The Committee also amended the primary enforcement provisions of the bill so as to provide that a law enforcement officer

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may not stop and issue a citation to a driver except when the driver or occupant is seventeen years of age or younger or at a lawful checkpoint.

The Committee gave a report of favorable with amendment to **H.3117. AS INTRODUCED**, this bill requires the Department of Public Safety (DPS) to **SUSPEND THE DRIVER'S LICENSE AND MOTOR VEHICLE REGISTRATION OF A PERSON UPON CERTAIN NOTIFICATION STATING THAT PROPERTY TAXES OWED BY THE PERSON ON A MOTOR VEHICLE HAVE NOT BEEN PAID** within a prescribed time limit. The bill also amends current law relating to the prohibition of additional taxes when a motor vehicle license plate is transferred so as to provide that the prohibition applies if the title and registration to the vehicle from which the tag was removed is transferred to a new owner. The bill also amends current law relating to the transfer of license plates so as to allow a transfer only if the title and registration to the vehicle from which the license was removed is transferred to a new owner.

AS AMENDED BY THE COMMITTEE, H.3117 requires DPS to suspend the driver's license and motor vehicle registration of a person who fails to pay personal property tax on a vehicle, but the request to suspend must be an electronic notification from the county treasurer of the county where the tax is delinquent, and the county treasurer must notify the delinquent taxpayer by letter before the electronic notification is sent to DPS. The Committee's amendments to this bill include provisions relating to the development and contents of this notification letter to the delinquent taxpayer, and a provision that the county shall allow 30 days for payment of taxes before notifying DPS to suspend the delinquent taxpayer's license and vehicle registration. The Committee also amended the bill so as to provide that a charge of driving under suspension when the suspension is solely for failure to pay property taxes or the reinstatement fee required for the property tax suspension will not require proof of financial responsibility. The Committee's amendments also include penalties for first, second, and third or subsequent charges of driving under suspension when the suspension is solely for failure to pay property taxes or the reinstatement fee required for the property tax suspension, and includes a provision that such a charge of driving under suspension must be dismissed if the person provides proof on their court date that the personal property taxes on the vehicle which resulted in the charge being issued have been paid. The Committee deleted the language in the bill which relates to transfer of license plates. The Committee also added a provision to the bill which provides for a fifty dollar fee for reinstatement of a driver's license or vehicle registration suspended due to violation of the provisions of the bill, and the Committee provided for the use of revenue from this fine.

The Committee have a report of favorable with amendment to **H.3703. AS INTRODUCED**, this bill requires the Department of Public Safety (DPS) to issue **NEW LICENSE PLATES, INCLUDING PERSONALIZED AND SPECIAL PLATES, AT LEAST EVERY SIX YEARS**. Currently, DPS must provide these plates "at intervals that DPS considers appropriate." The bill also requires that DPS collect, in addition to vehicle registration and license fees, an additional one dollar fee from a vehicle

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owner when his vehicle is registered and reregistered, and the fee is to be used to offset the costs of producing the new plates.

AS AMENDED by the Committee, **H.3703** requires that DPS collect: beginning January 1, 2002, through December 1, 2002, an additional five dollar fee from a vehicle owner; annually beginning January 1, 2003, an additional one dollar fee from a vehicle owner. The Committee also included an amendment providing that the fee must be placed into a special restricted account and used to offset the Division of Motor Vehicles' costs of producing the new plates.

The Committee gave a report of favorable with amendment to **H.3639**. **AS INTRODUCED**, this bill (effective July 1, 2001) transfers duties and responsibilities for development and management of the existing **NATIONAL GUARD STUDENT LOAN PROGRAM** to the State Commission on Higher Education, in consultation with the staff of the S.C. Student Loan Corporation. This program, offered as an enlistment or retention incentive for service in the National Guard in areas of critical need, is currently managed by the State Adjutant General, in consultation with the S.C. Student Loan Corporation.

The Committee amended **H.3639** by adding a provision that no more than ten percent of the funds annually appropriated to the Commission on Higher Education may be for the cost of administering the program.

JUDICIARY

The full Judiciary Committee did not meet this week. However, on Tuesday April 3, the Judiciary Committee met and gave a favorable report with amendment to the following bills. The amendments to these bills were not available in time to be included in last week's Legislative Update.

H.3693, the "**UNBORN VICTIMS ACT OF 2001**," received a favorable report with amendment from the Judiciary Committee. As introduced, this bill revises several existing statutes which offer an individual legal protection from various sorts of unlawful treatment so as to extend the protection to include the unborn. This bill amends *South Carolina Code of Laws* Chapter 3 (Offenses Against the Person) of Title 16 (Crimes and Offenses) relating to all offenses arising out of the unlawful killing or battery of any "person" or "another." The bill provides that the terms "person" and "another" include an unborn child at every stage of gestation in utero from conception until live birth. **H.3693** also amends *South Carolina Code of Laws* Chapter 5 (Traffic Regulation) of Title 56 (Motor Vehicles) and Chapter 21 (Equipment and Operation of Watercraft) of Title 50 (Fish, Game, and Watercraft) to provide that for purposes of all offenses arising out of the death or injury of any "person" in these articles, the term "person" includes an unborn child at every stage of gestation and in utero from conception until live birth.

The Judiciary Committee's proposed amendment to **H.3693** includes provisions for civil causes of actions. The Judiciary Committee's proposed amendment provides

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that, for purposes of a civil cause of action, the term "person" includes an unborn child at every state of gestation in utero from conception until live birth.

The Judiciary Committee's proposed amendment to H.3693 includes additional safeguards for pregnant females. The Judiciary Committee's proposed amendment states that the bill does not infringe upon a pregnant female's constitutional right to privacy or a pregnant female's right to a lawful abortion. The Judiciary Committee's proposed amendment further provides that no pregnant female may be subject to a civil suit or prosecuted for acts affecting her unborn child, except in the case of illegal drug use.

The Judiciary Committee's proposed amendment also includes additional safeguards for physicians and health care providers. Under the Judiciary Committee's proposed amendment, H.3693 does not apply to a medical procedure performed by a physician or other licensed health care provider at the request of a pregnant female or her legal guardian, any medical procedure for which consent is implied by law or is not required by law, or to the lawful prescription, dispensation, administration, or delivery of lawfully prescribed medications, injections, or devices. The Judiciary Committee's proposed amendment provides that no person or health care provider may be subject to a civil suit or prosecution for conduct relating to or arising out of the performance of a lawful abortion. The Judiciary Committee's proposed amendment further provides that no person or health care provider may be subject to a civil suit or prosecution for acts performed in the process of providing medical treatment to a pregnant female or her unborn child, or for the lawful prescription, dispensation, administration, or delivery of lawfully prescribed medications, injections, or devices.

H.3479, pertaining to **MANUFACTURERS, BREWERS, AND IMPORTERS OF BEER**, received a favorable recommendation with amendment from the Judiciary Committee on April 3. As first introduced, this bill provides that any manufacturer, brewer, or importer of beer or its affiliate may hold an interest in a limited partnership providing financial assistance to a general partner wholesaler under certain conditions, restrictions, and limitations. Under the Judiciary Committee's proposed amendment, it is an unfair trade practice for any manufacturer, brewer, or importer of beer or its affiliate holding an interest in a limited partnership providing financial assistance to a general partner wholesaler to have directly or indirectly any managerial control or decision-making authority, including personnel decisions, with respect to the day-to-day operations of the limited partnership. The Judiciary Committee's proposed amendment further provides that a violation of this legislation is deemed to be a violation of the South Carolina Unfair Trade Practices Act.

H.3789, OMNIBUS ELECTION LAW REVISIONS, also received a favorable report with amendment from the Judiciary Committee. Listed below is a section-by-section summary of the bill and the Judiciary Committee's proposed amendments.

County Election Commissions

The bill provides that any county election commission or similar entity must be elected for a term of four years. To create staggered terms, a majority minus one must be appointed for terms of two years and the remaining members appointed for terms of four years. The introduced version of the bill provided that all terms will end on December 31 of the year the term ends; under the Judiciary Committee's proposed amendment the terms would end on March 31.

The Judiciary Committee's proposed amendment provides that a legislative delegation may recommend to the governor the removal of a board or commission member. The Judiciary Committee's proposed amendment also provides that failure by a member of a county registration board, a combined county election and registration commission, or a county election commission to complete or make satisfactory progress toward completion of the certification and training requirement as determined by the State Election Commission, constitutes neglect of duty for which the member must be removed from office by the governor. The Judiciary Committee's proposed amendment also requires the State Election Commission to report to the governor and the legislative delegation or other recommending authority the progress of each of these officials toward completion of these training and certification requirements.

Uniform Election Procedure Act

Section 7-13-210 defines "governing body," as: the governing body of a municipality, school board, school district, special purpose district, or public service district, with include, but are not limited to, water, sewer, fire, recreation, soil conservation, and other similar district offices. This Section also sets forth appropriate times for elections.

As introduced, the bill provides that the elections shall be the same time as general elections in an even-numbered year or the first Tuesday following the first Monday in November in an odd-numbered year. Under the Judiciary Committee's proposed amendment, members of a governing body must be elected in elections to be conducted on the first Tuesday following the first Monday in May in an even-numbered year, at the same time as the general election, on the first Tuesday following the first Monday in May in an odd-numbered year, or on the first Tuesday following the first Monday in November in an odd-numbered year under certain circumstances.

Section 7-13-220 provides if an official is currently elected on the prescribed dates, the provisions of this bill now control the election of that official.

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Section 7-13-230 provides elections that were non-partisan will continue as non-partisan.

Section 7-13-240 provides the terms for a member elected to a governing body are now provided by law for that governing body.

Section 7-13-250 provides candidates for non-partisan elections must be nominated by the method provided by law for the office affected, with the appropriate authority conducting the election.

Section 7-13-260 provides elections during odd-numbered years shall be conducted pursuant to the laws in place for conducting general elections.

Section 7-13-270 provides officials shall continue to be elected by district as prescribed for their governing body.

Section 7-13-280 states vacancies shall be filled as provided by law.

Section 7-13-290 provides results of elections must be determined in the manner provided by law for that governing body.

Section 7-13-300 in the introduced version of the bill provides referendums for raising bond indebtedness must be held at the times prescribed herein. The Judiciary Committee's proposed amendment deletes this provision.

Hand Counts of Election Results

Hand counts of election results may only be conducted if a machine malfunction is certified by the State Election Commission and the necessity of a hand count is certified by the State Election Commission. All hand counts will be conducted at the direction of the State Election Commission. Local election commissions will be required to follow the policies and procedures for hand counts established by the State Election Commission.

Frivolous Election Protests

If a protest is found to be frivolous, the candidate losing the protest shall pay all of the fees incurred by the winning candidate and by the State Election Commission.

Election Officials Assisting Nursing Home Residents

Before each election, the appropriate election official or a trained designee shall visit each nursing home or assisted living facility in the county and offer qualified residents the opportunity to apply for an absentee ballot. Assistance can be

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provided to the resident to allow them to apply. Any resident correctly applying shall be brought an absentee ballot by the above stated election official.

Methods of Absentee Ballots

This section provides that if a machine can properly, under the law, perform the task it can be used as a means for absentee voting. The State Election Commission shall develop the guidelines for this process.

Special Elections to Fill Vacancies in Office

Current law provides that if the eighteenth Tuesday after the vacancy occurs is no more than sixty days prior to the general election, the special election shall be held on the same day as the general election. This section adds that if the vacancy occurs no more than 15 days after the general election, the special election shall be held on the same day as the general election.

Poll Watchers

This section allows poll watchers to be registered voters in the state rather than in the county where they are to watch.

Integrity of the Ballot

If more than one name for an office is marked on a ballot, the ballot must not be counted. The integrity of the ballot is the voter's responsibility and upon a hand count the voter's intent must be clear on the face of the ballot as prescribed by the State Election Commission.

Straight Party Ticket

This section allows voters to vote a straight party ticket, including voting straight party for President and Vice-President.

Absentee Ballot

This section replaces "by mail" with "in writing" as a means for a family member to request an absentee ballot. This section adds language requiring any absentee application produced by a candidate or party to be approved and stored on file for public inspection by the State Election Commission. The bill specifies that if someone fraudulently signs a form requesting an absentee application that person

shall be subject to the penalties prescribed for such an offense. Finally, "any voter" replaces "a person" as people subject to the penalties of violating this section.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, April 10, and passed out two bills.

The committee gave a report of favorable with amendment on H.3721, a bill revising **FEES CHARGED BY CONSUMER FINANCE COMPANIES**. The bill allows a lender to contract for and receive a minimum delinquency charge of five dollars, even if that charge exceeds the limit of five percent of the unpaid amount of the installment. Under the bill, such a delinquency charge may be imposed when an installment is delinquent for ten or more days, rather than for the five or more days currently allowed. The bill allows a lender to charge a maintenance fee of two dollars per month for the term of the loan. Currently, a lender may only charge a one dollar fee.

The committee gave a favorable report on H.3731, a bill revising procedures for conducting **EXAMINATIONS FOR LICENSURE OF CERTIFIED PUBLIC ACCOUNTANTS**. The bill revises time frames for providing notice of examination dates and for submitting applications for examination. The legislation authorizes the South Carolina Board of Accountancy to engage third parties to assist with administrative responsibilities for administering examinations. The legislation also revises references to the type of examinations to be given. Currently, the board administers a written, standardized examination provided by the American Institute of Certified Public Accountancy (AICPA). Revisions in this legislation allow South Carolina to make use of the AICPA's forthcoming computerized version of its examination.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met on Tuesday, April 10, and reported out two bills.

The committee gave a report of favorable with amendment to H.3287. This bill authorizes the Division of Veterans' Affairs to establish one or more **VETERANS' CEMETERIES** in the State for the burial of veterans and their immediate families. The Division will be responsible for the acquisition, maintenance and operation of the cemeteries. The legislation allows the Division to accept land in the name of the State or acquire land for the cemeteries upon approval of: 1) the governing body of the county where the cemetery is to be located; 2) the General Assembly delegation for the county where the cemetery is to be located; and 3) the Budget and Control Board. The bill requires the Division to give priority to land near a national memorial battle site and it allows the Division to accept or purchase federal land that was once a military

base. The legislation specifies qualifications that must be met in order to be eligible for burial in a state veterans' cemetery.

The committee gave a report of favorable with amendment to **H.3644**. This Joint Resolution establishes a **COMMITTEE TO STUDY CERTAIN ISSUES AFFECTING VETERANS**. The specific issues include: (1) the feasibility of constructing a fourth state veterans' nursing home; (2) recommendations about improvements to existing veterans' nursing home facilities; (3) the accessibility and availability veterans have to existing nursing and adult daycare facilities; (4) how the State should maximize the use of state tax revenue to benefit veterans; and (5) a projection of the State's veteran population growth for the next 20 years. The committee would be comprised of three Senators, appointed by the President of the Senate, and three Representatives, appointed by the Speaker of the House. The members of the committee would elect a chairperson and a vice-chairperson. The Committee would meet as often as necessary and at any location in the State in order to prepare a written report of its findings and recommendations. The report would be presented to both houses of the General Assembly and to the Governor by June 1, 2002 at which time the committee would be dissolved and the joint resolution expires. The committee would receive clerical and related assistance from the staffs of the Senate and of the House of Representatives. Committee members and staff would not receive compensation for their duties but would be allowed the usual mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commission.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3909 REQUIRED APPAREL FOR GAME ZONE 7 HUNTERS

Rep. Witherspoon

This bill provides that in Game Zone 7, all persons hunting deer must wear a hat, shirt, coat, or vest of solid visible international orange during those open seasons for deer when guns and muzzleloaders are used. Persons hunting dove, duck, and turkey are exempt from this requirement. Persons using archery equipment are exempt from this requirement except when hunting deer during gun or muzzleloader season. Persons hunting small game at night or on privately owned lands are also exempt from this requirement.

S.147 CRIMINAL PENALTIES FOR VIOLATIONS OF THE POLLUTION CONTROL ACT Sen. Hawkins

This bill revises provisions relating to criminal penalties for violations of the Pollution Control Act, so as to provide that such penalties are for gross negligence or recklessness rather than simple negligence.

H.3935 HUNTING DOVES Rep. Lucas

This bill provides that the legal shooting hours on days the Department of Natural Resources designates as less than a full day for hunting doves is from one-half hour before sunrise until twelve-thirty p.m.

EDUCATION AND PUBLIC WORKS

H.3907 TENDER OR INTERCHANGE OF AN INTERMODAL TRAILER, CHASSIS, OR CONTAINER Rep. Townsend

This bill provides that if the equipment provider for certain out-of-service vehicles fails to reimburse the motor carrier operator for fines and penalties incurred pursuant to the vehicle's out-of-service order within thirty days of a conviction for violating a roadside inspection, then the motor carrier operator has a civil cause of action against the equipment provider. The bill also provides that this provision is not intended to eliminate the responsibility and obligation of a motor carrier and operator to maintain and operate vehicles in accordance with the Federal Motor Carrier Safety regulations and all state and local laws. The bill also provides that any provision contained in an intermodal interchange contract providing for a hold harmless or indemnity agreement, or both, between the motor carrier operator and the tenderer or owner of a vehicle, contrary to any provision of this bill, is contrary to public policy and is null and void.

H.3915 MILITARY RESERVE SPECIAL LICENSE PLATES Rep. J. Young

This bill amends current law regarding issuance, design, and usage of special license plates for members of the United States Military Reserve. The bill also provides that resident active and retired members of the South Carolina National Guard, upon request, must be issued a special license plate. The bill deletes the requirement that these plates may be issued only after the current stock of South Carolina Guard, National Guard, and South Carolina National Guard Retired license plates is exhausted.

H.3919 UNLAWFULLY ENTICING AN ENROLLED CHILD FROM ATTENDING SCHOOL Rep. Robinson

This bill amends current law regarding the unlawfulness of enticing a child enrolled in school from attendance at the school. The bill exempts from these provisions a student enrolled in a school enticing another student at that school not to attend school or a school program. The bill provides that these matters shall be handled administratively by appropriate school officials, provided that after three instances of administrative punishment or discipline, a student may be charged as is currently provided.

S.495 SPECIAL LICENSE PLATES Sen. Wilson

This bill requires the Department of Public Safety to display in all Division of Motor Vehicle Offices where motor vehicle license plates or stickers may be obtained or renewed, examples of all types of special license plates which individuals of a particular group may obtain.

S.504 SPECIAL LICENSE PLATES FOR RETIRED GUARD MEMBERS

Sen. Reese

This bill provides that an application for a special South Carolina National Guard or South Carolina State Guard license plate must include a copy of the applicant's military identification card or other evidence showing that the applicant is either a retired or active member of the South Carolina National Guard or the South Carolina State Guard.

H.3920 SERTOMA SPECIAL LICENSE PLATES Rep. Perry

This bill provides for the issuance, distribution, design, and fee for special Sertoma International license plates. The bill also provides that the fees, after costs have been satisfied, must be distributed to the "Camp Sertoma Fund."

H.3931 VEHICLE WIDTH Rep. Townsend

This bill provides that appurtenances on motor homes, travel trailers, fifth wheels, folding camp trailers, and truck campers may extend beyond the statutory maximum width requirement of a vehicle as long as they remain inside the exterior rear view mirrors of the vehicle, or its tow vehicle. The bill also increases from forty to forty-five feet, the maximum allowed length of motor vehicles other than certain specified truck tractors.

**H.3933 BEGINNER'S PERMIT, PROVISIONAL LICENSE,
SPECIAL RESTRICTED DRIVER'S LICENSE,
DRIVER'S TRAINING Rep. Townsend**

This bill includes revisions to current law regarding beginner's permits, provisional licenses, special restricted driver's licenses, and driver's training.

The bill provides that a beginner's permit is valid in the operation of vehicles between six a.m. and midnight, rather than "during the daylight hours," as is currently provided. The bill provides that a beginner's permit is valid in the operation of certain scooters and cycles between six a.m. and six p.m., except that beginning on the day that daylight savings time goes into effect through the day that daylight saving time ends, the permittee may operate these certain scooters and cycles between six a.m. and eight p.m. The bill also increases from ninety days to one hundred eighty days the period which a person must hold a beginner's permit before being eligible for full licensure.

The bill provides that in addition to current requirements, a driver must complete at least forty hours of driving practice, including at least ten hours of licensed parental- or guardian-supervised driving practice during darkness, in order to be issued a provisional driver's license or a special restricted driver's license. The bill also includes requirements for school attendance before a special restricted driver's

license or a provisional driver's license may be issued. The bill also prohibits a provisional driver's license holder or a special restricted license holder from transporting more than two passengers (except for family members) who are under twenty-one years of age unless accompanied by a licensed adult age twenty-one or over.

In addition to current requirements, the bill also provides that a person must pass a specified driver's education course in order to be issued a special restricted driver's license (provisional license holders are currently required to pass a driver's education course). The bill also provides that for purposes of issuing a special restricted driver's license, the Department of Public Safety must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program equivalent to an approved course or program in this State.

H.3926 ADMINISTRATION OF "PACT" TEST Rep. Kelley

This bill provides that the Palmetto Achievement Challenge Test (PACT) shall be administered on a school district by school district basis with the date of the annual test administered in any school district to be on the day following completion of the district's one hundred sixtieth day of student instruction with the make-up test to be two weeks later.

JUDICIARY

S.459 METHODS OF ABSENTEE VOTING Sen. Martin

This bill authorizes a county board of registration to use other methods of voting by absentee ballot instead of by paper ballot. No voting machine or voting system, other than a paper-based system, may be used for in-person absentee voting that has not received written certification from the State Election Commission. The State Election Commission must develop standards and guidelines for these purposes.

S.481 HARASSMENT AND STALKING Sen. Holland

This bill amends the definition of the term "harassment" to include written or electronic communication that is initiated, maintained, or repeated after a person has been provided notice that the contact is unwanted. Under this bill, a person convicted of harassment is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both if: (1) the person has a prior conviction of harassing or stalking; or (2) at the time of the harassment or stalking, an injunction or restraining order was in effect prohibiting the harassment or stalking.

Current law provides that a person who engages in stalking is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both. This bill increases the penalty from one-year imprisonment to three years imprisonment.

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Current law provides that a person who engages in stalking when an injunction or restraining order is in effect prohibiting this conduct is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than two years, or both. This bill increases the penalty from two years imprisonment to three years imprisonment.

Current law provides that a person who engages in stalking a person within seven years of a prior conviction of harassment against or stalking of that person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both. Current law also provides that a person who engages in aggravated stalking of a person within seven years of a prior conviction of harassment against or stalking of that person is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, imprisoned not more than fifteen years, or both. This bill deletes the seven years prior conviction time frame from both these sections.

This bill also provides that upon the issuance of a restraining order as a condition of bond for the arrest of the defendant for any crime, the magistrate's court shall issue a written copy of the restraining order to the victim in person or by mail within twenty-four hours of the bond hearing. A restraining order issued as a condition of bond has the same effect as any restraining order issued.

With regards to a magistrates' court serving a defendant with a certified copy of the order, this bill provides that after reasonable attempts to locate the defendant have failed, service of the defendant must be made by mail return receipt requested to the defendant's last known address. The receipt return must be filed with the magistrates' court. A copy must also be mailed to the plaintiff.

Prior to setting bail, this bill allows a magistrate or a municipal judge to order a defendant charged with harassment or stalking to undergo a mental health evaluation performed by the local mental health department. The purpose of this evaluation is to determine if the defendant poses a threat to the victim or possesses a mental abnormality which requires immediate commitment or additional treatment as a condition of bond.

Under this bill, criminal domestic violence of a high and aggravated nature would be considered a violent crime.

This bill completely revises the statute pertaining to unlawful use of a telephone. This bill provides that it is unlawful for a person, by telephone, computer, or other electronic device, with the intent to coerce, intimidate, or harass another person, to communicate or convey to another person a message, which is obscene, vulgar, indecent, profane, suggestive, or immoral. This bill further provides that it is unlawful for a person to repeatedly telephone, or repeatedly send e-mail or other forms of electronic communication to another person, whether conversation or communication ensues, for the purpose of annoying or harassing that person or that person's family. The bill establishes penalties for failure to comply with these provisions.

H.3904 PRIVATE ENTITIES CONTRACTING WITH THE STATE

Rep. W.D. Smith

This bill requires a private entity that is a contractor with the State or any agency, commission, or department of the State, to disclose, upon written inquiry, the amount of any commission, referral fee, finder's fee, consulting fee, contingency fee, or other monies paid in connection with obtaining the contract and the name of the person to whom the monies were paid.

H.3905 PAYMENT OF FINES, FEES, ASSESSMENTS, COURT COSTS, AND SURCHARGES BY A CREDIT CARD Rep. Whipper

This bill authorizes the payment of fines, fees, assessments, court costs, and surcharges in circuit court, family court, magistrates' court, and municipal court by credit card or debit card. The bill authorizes the imposition of a fee for processing a credit card payment. The bill outlines procedures in the event a credit card is not honored, and the bill outlines circumstances under which the various courts may refuse to accept a credit card payment.

H.3913 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE

Rep. Rodgers

Current law provides that a person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age. This bill changes the maximum age of a victim of criminal sexual conduct in the second degree from a person fourteen years of age or less to a person who has not attained the age of sixteen. This bill takes effect upon ratification of the amendment to Article III, Section 33 of the Constitution of South Carolina increasing from fourteen to sixteen the age at which an unmarried woman can consent to sexual intercourse.

H.3916 COMPLIANCE WITH THE STATE'S COMPREHENSIVE HEALTH EDUCATION PROGRAM Rep. Klauber

This bill authorizes the Attorney General to enforce compliance with the state's Comprehensive Health Education Program.

H.3918 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE

Rep. Rutherford

Current law provides that a person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. Under this bill, a person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit, or is at least three years older than the victim.

H.3934 AMENDMENTS TO THE SEXUALLY VIOLENT PREDATOR ACT

Rep. Klauber

This bill provides that the time deadlines established in the Sexually Violent Predator Act are ministerial in nature and not jurisdictional. The bill further provides that a petition or a case may not be dismissed for failure to meet a particular time deadline. With regards to procedures of the Sexually Violent Predator Act, this bill provides for expanded time frames and review of a person's records by a mental health profession. The bill also limits discovery to the documents in the Attorney General's file and other documents that may be obtained through service of a subpoena duces tecum. The bill does not permit the use of depositions or interrogatories.

LABOR, COMMERCE, AND INDUSTRY

H.3908 STATE BOARD OF PYROTECHNIC SAFETY Rep. Kelley

This bill provides that the State Board of Pyrotechnic Safety shall operate under the Division of Fire and Life Safety of the Department of Labor, Licensing and Regulation. The bill revises the membership of the board to provide that it shall be composed of seven members appointed by the Governor. Three of the members shall be firefighters, one member shall be a pyrotechnics retailer, one shall be a member of the public who shall not possess any pecuniary interest in any entity engaged in a business directly involving the sale of pyrotechnics, and one member shall be from the South Carolina Forestry Commission with expertise in wildfire management and control. The State Fire Marshal shall be the seventh member of the board to serve ex officio and as chairman.

S.41 BURGLAR ALARM SYSTEM INDUSTRY REGULATION Sen. Leventis

This bill makes revisions to provisions pertaining to the licensure and regulation of the burglar alarm industry under the Department of Labor, Licensing and Regulation. The bill provides that certain licensure fees include a primary qualifying party certificate. The bill provides that a branch office may not conduct business until an application has been approved by the department and a license number has been issued for the branch office. The bill provides that an employee must not have access to the burglar alarm client's records until the license applicant or licensed entity verifies that the employee has not been convicted of specified crimes and documents in the employee's personnel file that the individual meets registration requirements. If the employee has been convicted of specified crimes, in order to be registered the individual must appear before the board and present evidence satisfactory to the board, in its discretion, as to the individual's fitness and qualifications for registration. The bill provides that registration is not required for administrative, monitoring, or customer service personnel working temporarily within this State for a period not to exceed thirty consecutive days. These unregistered employees must not have access to the alarm business system's client's records. Any administrative or customer service personnel working over thirty consecutive days must be registered. The department must be notified by the licensee of each employee required to be licensed within thirty days of employment along with the results of the criminal background check of the new employee. All

registered employees of a branch office who have access to the licensee's client records must be registered with the department within thirty working days of employment within the branch office. Upon termination of an employee, the department shall immediately cancel the registration of the employee. Failure of the licensee and registered employee to notify the department of the termination of the employee within thirty days may result in disciplinary action.

S.537 CAPTIVE REINSURANCE COMPANIES Senate Banking and Insurance Committee

The legislation expands provisions authorizing captive insurance companies, which insure only the risks of parent or affiliated companies, so as to provide for a new form of captive, the Reinsurance Captive. The legislation provides requirements for such captives including minimum capitalization and the percentage of capital that must be kept in South Carolina. It is not the intent of this provision to allow an insurer domiciled outside this State to take credit for reinsurance in its financial statements based on the domestic license, authorization, accreditation, or 'substantially similar' status of the captive reinsurance company.

H.3932 EXEMPTIONS FROM PUBLIC SERVICE COMMISSION REGULATION FOR INDUSTRIAL PARKS Sen. Law

This bill exempts from the Public Service Commission's regulations those utility services, except the provision of electrical service, provided to an industrial user when the user and provider have agreed to a written contract for the services, the user is located in an industrial park, and where jurisdictional utilities have agreed in writing to waive their right to notice and opportunity for a hearing on the contract, and require the provider of utility services to file the written agreement with the commission.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.343 ANESTHESIOLOGIST'S ASSISTANTS PRACTICE ACT Sen. Hayes

This bill provides for the licensure and regulation of anesthesiologist's assistants. The legislation establishes an Anesthesiologist's Assistant Advisory Committee to the Board of Medical Examiners, providing for the powers and duties of both with regard to anesthesiologist's assistants. The bill defines the role and responsibilities of a supervisory physician for an anesthesiologist's assistant. The bill provides general practice parameters and procedures for establishing scope of practice protocols and further provides for the regulation of anesthesiologist's assistants. Penalties are provided for violations.

WAYS AND MEANS

S.35 DRIVER'S LICENSE SUSPENSION FOR DELINQUENCY ***IN PAYING PROPERTY TAXES*** Sen. Elliott

This bill requires the Department of Public Safety (DPS) to suspend the driver's license and vehicle registration of a person who fails to pay personal property tax on a vehicle. The bill includes relevant notification procedures which must precede such a suspension.

The bill also provides that a charge of driving under suspension when the suspension is solely for failure to pay property taxes or the reinstatement fee required for the property tax suspension will not require proof of financial responsibility. The bill provides that first offense conviction for such charges will carry a penalty of a fine not to exceed fifty dollars, a second offense conviction will carry a penalty of a fine not to exceed two hundred dollars, and a third or subsequent offense conviction will carry a penalty which shall not exceed the general criminal jurisdiction of a magistrate's court. The bill also requires that a charge of driving under suspension issued solely for failure to pay property taxes or the reinstatement fee required for the property tax suspension must be dismissed if the person provides proof on their court date that the property taxes in question have been paid.

The bill requires payment of a thirty dollar fee before the reinstatement of a driver's license or vehicle registration suspended under the provisions of the bill, and the bill provides for use of this fee.

H.3914 STATE EMPLOYEE ABSENCE FROM WORK Rep. Cobb-Hunter

This bill provides that a state employee's absence from work solely due to a workplace closing or staffing reduction ordered by the Governor in the declaration of a state of emergency is not considered an absence from work for purposes of annual or other types of leave allowed state employees.

H.3921 VOLUNTEER "HAZMAT" RESPONSE TEAMS Rep. Perry

This bill extends the state income tax deduction allowed to volunteer firefighter and rescue squad members to a volunteer member of a Hazardous Materials ("HAZMAT") Response team. The bill also amends current provisions regarding the performance-based point system to determine eligibility for the state income tax deduction allowed volunteer firefighters and rescue squad workers by extending this point system to volunteer HAZMAT team members.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on the "Insider's Page," then click on "Legislative Update." This will list all of the *Legislative Updates* by date. Click on the date you need.

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**OFFICE OF RESEARCH
S. C. HOUSE OF REPRESENTATIVES
213 BLATT BUILDING
POST OFFICE BOX 11867
COLUMBIA, SOUTH CAROLINA 29211**

LEGISLATIVE UPDATE

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